

State of Wisconsin
2005 – 2006 LEGISLATURE

LRBa2374/1
MDK:kjf:rs

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT (LRBs0511/2),
TO 2005 SENATE BILL 459**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 2, line 14: after “construction” insert “and certain purchases”.

3 **2.** Page 2, line 18: before that line insert:

4 “**SECTION 1e.** 16.75 (1) (a) 1. of the statutes, as affected by 2005 Wisconsin Act
5 25, is amended to read:

6 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all
7 materials, supplies, equipment, and contractual services to be provided to any
8 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
9 (6), (7), (8), (9), (10e), and (10m) and ss. 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f),
10 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible
11 bidder, taking into consideration life cycle cost estimates under sub. (1m), when
12 appropriate, the location of the agency, the quantities of the articles to be supplied,

1 their conformity with the specifications, and the purposes for which they are
2 required and the date of delivery.

3 **SECTION 1m.** 16.75 (10e) of the statutes is created to read:

4 16.75 (10e) (a) In this subsection, “energy consuming equipment” means any
5 equipment that is designed for heating, ventilation, air conditioning, water heating
6 or cooling, lighting, refrigeration, or any other function, and that consumes energy.

7 (b) The department, any other designated purchasing agent under s. 16.71 (1),
8 any agency making purchases under s. 16.74, and any authority may not purchase
9 energy consuming equipment unless the specifications for the equipment meet the
10 applicable standards for the equipment established under s. 16.855 (10s) (a). If there
11 is no standard under s. 16.855 (10s) (a) applicable to the type of energy consuming
12 equipment being purchased, or if the energy consuming equipment meeting that
13 standard is not reasonably available, the department, purchasing agent, agency, or
14 authority shall ensure that the energy consuming equipment that is purchased
15 maximizes energy efficiency to the extent technically and economically feasible. The
16 department, purchasing agent, agency, or authority shall not determine that energy
17 consuming equipment that meets the applicable standard under s. 16.855 (10s) (a)
18 either is not reasonably available on the basis of cost alone or is not cost-effective
19 unless the difference in the cost of the purchase and installation of the equipment
20 that meets the standard and the equipment that would otherwise be installed is
21 greater than the difference in the cost of operating the equipment that meets the
22 standard and the equipment that would otherwise be installed over the anticipated
23 life of the equipment.”.

24 **3.** Page 2, line 18: delete “**SECTION 1**” and substitute “**SECTION 1s**”.

See
Cullen
email

1 **4.** Page 6, line 2: after “revenues.” insert “The department of administration
2 shall consider whether to include in its plan the means of financing allowed under
3 s. 16.858.”.

4 **5.** Page 10, line 12: delete the material beginning with “To reflect” and ending
5 with “\$750.” on line 14.

6 **6.** Page 11, line 8: delete the material beginning with “To reflect” and ending
7 with “\$375.” on line 11.

8 **7.** Page 11, line 14: delete “annually.”.

9 **8.** Page 11, line 15: delete “an amount equal to”.

10 **9.** Page 11, line 16: delete “in that year”.

11 **10.** Page 19, line 2: delete “196.025 (1) (a)” and substitute “196.025 (1) (ar)”.

12 **11.** Page 19, line 4: delete “196.025 (1) (a)” and substitute “196.025 (1) (ar)”.

13 **12.** Page 19, line 8: after that line insert:

14 “**SECTION 61m.** 196.025 (1) (ag) of the statutes is created to read:

15 196.025 (1) (ag) *Definitions.* In this subsection:

16 1. “Renewable resource” has the meaning given in s. 196.374 (1) (j).

17 2. “Wholesale supplier” has the meaning given in s. 16.957 (1) (w).”.

18 **13.** Page 19, line 10: delete the material beginning with that line and ending
19 with page 20, line 16, and substitute:

20 “196.025 (1) (b) *Energy conservation and efficiency.* 1. In a proceeding in which
21 an investor–owned electric public utility is a party, the commission shall not order
22 or otherwise impose energy conservation or efficiency requirements on the
23 investor–owned electric public utility pursuant to s. 1.12 (4) if the commission has

1 fulfilled all of its duties under s. 196.374 and the investor-owned electric public
2 utility has satisfied the requirements of s. 196.374 for the year prior to
3 commencement of the proceeding, as specified in s. 196.374 (8).

4 2. In a proceeding in which a wholesale supplier is a party, the commission shall
5 not order or otherwise impose energy conservation or efficiency requirements on the
6 wholesale supplier pursuant to s. 1.12 (4) if the commission has fulfilled all of its
7 duties under s. 196.374 and the wholesale supplier's members are in the aggregate
8 substantially in compliance with s. 196.374 (7).

9 (c) *Renewable resources.* 1. In a proceeding in which an investor-owned electric
10 public utility is a party, the commission shall not order or otherwise impose any
11 renewable resource requirements on the investor-owned electric public utility
12 pursuant to s. 1.12 (4) if the commission has fulfilled all of its duties under s. 196.374
13 and the commission has informed the utility under s. 196.378 (2) (c) that, with
14 respect to the most recent report submitted under s. 196.378 (2) (c), the utility is in
15 compliance with the requirements of s. 196.378 (2) (a) 2.

16 2. In a proceeding in which a wholesale supplier is a party, the commission shall
17 not order or otherwise impose any renewable resource requirements on the
18 wholesale supplier pursuant to s. 1.12 (4) if the commission has fulfilled all of its
19 duties under s. 196.374 and the wholesale supplier's members are in the aggregate
20 substantially in compliance with s. 196.378 (2). 196.378

21 (d) *Transmission facilities.* In a proceeding regarding a request by a public
22 utility or wholesale supplier to acquire, construct, install, or operate an electric
23 transmission facility or associated equipment, the commission shall not order or
24 otherwise impose requirements on the public utility or wholesale supplier pursuant
25 to s. 1.12 (4).

1 **14.** Page 21, line 20: after that line insert:

2 “(em) “Large energy customer” means a customer, of an energy utility, that
3 owns or operates a facility that has an energy demand of at least 1,000 kilowatts of
4 electricity or 10,000 decatherms of natural gas and that, in a month, was billed at
5 least \$60,000 for electric service, natural gas service, or both, for all of the facilities
6 of the customer within the energy utility’s service territory.”.

7 **15.** Page 23, line 1: delete lines 1 to 4.

8 **16.** Page 23, line 11: before “administer” insert “develop and”.

9 **17.** Page 23, line 17: delete “(a)” and substitute “(ar)”.

10 **18.** Page 24, line 6: after “customers.” insert “A local unit of government that
11 receives assistance under this subd. 2. b. shall apply all costs savings realized from
12 the assistance to reducing the property tax levy.”.

13 **19.** Page 24, line 10: after that line insert:

14 “d. Initiatives for research and development regarding the environmental
15 impacts of the electric industry.”. *and economic*
energy use in this state

16 **20.** Page 25, line 5: delete “shall” and substitute “may”.

17 **21.** Page 25, line 7: delete “or” and substitute “at any time and shall request
18 the modification or discontinuation of”.

19 **22.** Page 25, line 8: delete lines 8 to 14 and substitute:

20 “(c) *Large energy customer programs.* A customer of an energy utility that the
21 ~~commission has determined is a large energy customer under 2005 Wisconsin Act~~
22 ~~(this act), section 102 (8) (b) or sub. (5) (b) 2. may, with commission approval,~~
23 administer and fund its own energy efficiency programs. A customer may request

*if, for an energy efficiency
determination, submit to the*

commission approval at any time. A customer that funds a program under this paragraph may deduct the amount of the funding from the amount the energy utility may collect from the customer under sub. (5) (b) and the energy utility ~~may~~ ^{shall} credit the amount of the funding against the amount the energy utility is required to spend under sub. (3) (b) 2.”

23. Page 28, line 11: delete lines 11 and 12.

24. Page 28, line 17: after “(b) 1.” insert “The cost of the audits shall be paid by the person or persons with whom the energy utilities contract for program administration under sub. (2) (a) 1.”

25. Page 30, line 13: delete that line and substitute:

“(5) COST RECOVERY. (a) *Rate-making orders*. The commission shall ensure”.

26. Page 30, line 15: delete “under sub. (3) (b) 2.” and substitute “for programs under sub. (2) (a) 1.”

27. Page 30, line 16: delete the material beginning with that line and ending with page 31, line 3, and substitute:

“(b) *Large energy customers*. 1. Except as provided in sub. (2) (c) and par. (bm) 2., if the commission has determined that a customer of an energy utility is a large energy customer under 2005 Wisconsin Act (this act), section 102 (8) (b), then, each month, the energy utility shall collect from the customer, for recovery of amounts under par. (a), the amount determined by the commission under 2005 Wisconsin Act (this act), section 102 (8) (c).

2. A customer of an energy utility that the commission has not determined is a large energy customer under 2005 Wisconsin Act (this act), section 102 (8) (b), may petition the commission for a determination that the customer is a large energy

The person shall pay - from the audit and (2)(a) 1. Page 8

from the audit of the energy utilities

pd to contract with already sub (2)(a) 1.

1 customer. The commission shall determine that a petitioner is a large energy
2 customer if the petitioner satisfies the definition of large energy customer for any
3 month in the 12 months preceding the date of the petition. If the commission makes
4 such a determination, the commission shall also determine the amount that the
5 energy utility may collect from the customer each month for recovery of the amounts
6 under par. (a). The commission shall determine an amount that ensures that the
7 amount collected from the customer is similar to the amounts collected from other
8 customers that have a similar level of energy costs as the customer. Except as
9 provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect
10 from the customer, for recovery of amounts under par. (a), the amount determined
11 by the commission under this subdivision.

12 (bm) *Allocation proposal*. 1. The commission shall commence a proceeding for
13 for creating a proposal for allocating within different classes of customers an
14 equitable distribution of the recovery of the amounts under par. (a) by all energy
15 utilities. The purpose of the allocation is to ensure that customers of an energy utility
16 within a particular class are treated equitably with respect to customers of other
17 energy utilities within the same class. No later than December 31, 2008, the
18 commission shall submit the proposal to the governor and chief clerk of each house
19 of the legislature for distribution to the appropriate standing committees of the
20 legislature under s. 13.172 (3).


21 2. If the legislature has not, before July 1, 2009, enacted legislation based on
22 the proposal under subd. 1., the commission shall, beginning on July 1, 2009,
23 annually increase the amount that an energy utility may recover from a large energy
24 customer each month under par. (b) by a percentage that is the lesser of the following:

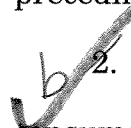
has not been enacted

by

See
change

only

1  1. The percentage increase in the energy utility's operating revenues during the
2 preceding year.

3  2. The percentage increase in the consumer price index for all urban
4 consumers, U.S. city average, as determined by the U.S. department of labor, during
5 the preceding year.”.

6 **28.** Page 31, line 4: after “(c)” insert “*Accounting*.”.

7 **29.** Page 31, line 7: delete “(d) The commission” and substitute “(d) *Equitable*
8 *contributions*. Subject to pars. (b) and (bm) 2., the commission”.

9 **30.** Page 31, line 9: delete the material beginning with “The” and ending with
10 “amounts.” on line 12.

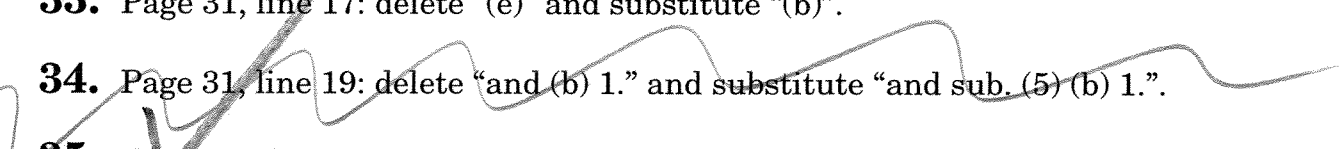
11 **31.** Page 31, line 13: delete that line and substitute:

12 “(5m) BENEFIT AND GRANT OPPORTUNITIES. (a) The commission shall ensure that,
13 on an annual basis, each customer class of”.

14 **32.** Page 31, line 16: delete “par. (a).” and substitute “sub. (5) (a). Biennially,
15 the commission shall submit a report to the governor, and the chief clerk of each
16 house of the legislature for distribution to the legislature under s. 13.172 (2), that
17 summarizes the total amount recovered from each customer class and the total
18 amount of grants made to, and benefits received by, each customer class.”.

19 **33.** Page 31, line 17: delete “(e)” and substitute “(b)”.

20 **34.** Page 31, line 19: delete “and (b) 1.” and substitute “and sub. (5) (b) 1.”.

21  **35.** Page 32, line 15: delete the material beginning with “To reflect” and
22 ending with “\$375.” on line 17.

1 **36.** Page 32, line 20: delete the material beginning with “A commitment to”
2 and ending with “sub. (3) (f) 4.” on line 22 and substitute “The purpose of the
3 programs under this paragraph shall be to help achieve environmentally sound and
4 adequate energy supplies at reasonable cost. A program under this paragraph by a
5 municipal electric utility shall be consistent with the commission’s responsibilities
6 under s. 196.025 (1) (ar) and the utility’s obligation under this chapter.”.

7 **37.** Page 35, line 13: delete “for” and substitute “in”.

8 **38.** Page 35, line 14: delete “for” and substitute “in”.

9 **39.** Page 38, line 6: delete lines 6 to 12 and substitute:

10 “196.378 (2) (b) 1m. The amount of electricity provided by hydroelectric power
11 that an electric provider may count toward satisfying the requirements of par. (a) 2.
12 shall be all electricity provided by hydroelectric power that the electric provider
13 purchased in the reporting year plus all of the following:

14 a. The average of the amounts of hydroelectric power generated by facilities
15 owned or operated by the electric provider for 2001, 2002, and 2003, adjusted to
16 reflect the permanent removal from service of any of those facilities and adjusted to
17 reflect any capacity increases from improvements made to those facilities on or after
18 January 1, 2004.

19 b. The average of the amounts of hydroelectric power generated by facilities
20 owned or operated by the electric provider that are initially placed in service on or
21 after January 1, 2004.”.

22 **40.** Page 46, line 14: delete lines 14 to 21.

23 **41.** Page 47, line 1: delete lines 1 to 9 and substitute:

1 “(b) No later than July 1, 2008, the public service commission shall submit a
2 report to the governor and chief clerk of each house of the legislature for distribution
3 to the legislature under section 13.172 (2) of the statutes that consists of the
4 commission’s recommendations on whether any component of an energy utility’s
5 revenue requirements should be itemized on ratepayer bills.”.

6 **42.** Page 47, line 9: after that line insert:

7 “(8) LARGE ENERGY CUSTOMERS.

8 (a) In this subsection:

9 1. “Commission” means the public service commission.

10 2. “Energy utility” has the meaning given in section 196.374 (1) (e), as created
11 by this act.

12 3. “Large energy customer” has the meaning given in section 196.374 (1) (em),
13 as created by this act.

14 (b) No later than July 1, 2007, the commission shall determine the customers
15 of energy utilities that, for any month during the 12 months preceding the date of the
16 commission’s determination, satisfy the definition of large energy customer.

17 (c) For each customer of an energy utility that the commission determines is
18 a large energy customer under paragraph (b), the commission shall, no later than
19 July 1, 2007, determine the monthly average that the customer paid the energy
20 utility in 2005 for recovery under s. 196.374 (3), 2003 stats.”.

21 **43.** Page 47, line 21: delete “(6), and (7)” and substitute “(7), and (8)”.

22 (END)

*and for ~~recovery~~
recovery of
on costs of order
programs
add defn*

Kunkel, Mark

From: Lee Cullen [cullen@cwpb.com]
Sent: Sunday, February 19, 2006 3:18 PM
To: Henderson, Patrick - Office of Governor Jim Doyle; Lovell, David; Kunkel, Mark; Sen. Cowles; Stuart, Todd; Schooff, Dan PSC
Subject: URGENT - Revised Changes to SB 459 Amendment Per Todd Stuart

Drafters & interested parties - Because time is of the essence Todd asked me to send you this revised description of changes to the amendment to LRBs0511/2. These changes are based upon discussions with Todd and Dan Schooff over the weekend.

#4 (p. 3) DOA Energy Cost Reduction Plan. The compromise was that "the department of administration shall consider in its plan the means of financing allowed under s. 16.858." In other words, the DOA plan must look at these methods in its plan, but is under no obligation to adopt them. Please delete "whether to include" in line 2.

#13 (p. 3, l. 23; p. 4, l. 12) Energy Priority Law Compliance. The compromise did not include "pursuant to s. 1.12(4)." This reference is not necessary because it is only s. 196.025(1) that makes s. 1.12(4) applicable to PSC decisions. Also, p. 4, l. 12 should say "s. 196.378" not "s. 196.374." *see change*

#20, 21 (p. 5). Timing of Requests re Retained Programs. The compromise is that initial approval of establishment of these programs is in the periodic PSC proceeding, but the utility may propose modification or discontinuation at any time.

#26 (p. 6, l. 12-13). Cost-Recovery by Utilities. In order to insure appropriate recovery of costs for retained programs, please add to this sentence "...and the amounts it reasonably and prudently expends under sub. (2)(b)1."

#27 (p. 7, l. 23). PSC Allocation Proposal. The phrase "implement the proposal and..." should be inserted here. If the legislature does not act, the PSC implements the allocation proposal.

#39 (p. 9, 10). Qualifying Hydro Power. In order to make it clear that the existing under 60 MW requirement for hydro continues to apply, please add "Subject to sub. (1)(h)1m" to this new language defining qualifying hydro power. *→ see change*

New #39A (p. 9, after l. 21) Wholesale Supplier Sale of Renewable Credits. As requested by DPC and WPPI, please revise p. 38, l. 15-18 of the substitute amendment to provide that a wholesale supplier also may sell credits. *see notes*

New #39B (p. 9, after l. 21). Delete Sections 93 through 96 of the sub and replace with David Lovell's consolidation proposal as amended by Michael Vickerman (sent today by separate e-mail). The basic idea is to provide that prior to 1/1/04 and under prior law a renewable credit was credited only by a retail provider, whereas after 1/1/04 and under this bill and PSC rules a renewable credit also may be created by a renewable generator (and sold to a retail provider to satisfy the RPS, even if the retail provider does not take the electricity). *No change*

New #39C (p. 9, after l. 21) Additional Voluntary Renewable Resources. Add a sentence at p. 43, line 8 of the sub that "an electric provider may, with commission approval, administer or fund a program that increases the renewable energy usage of its customers." *see change*

#42 (p. 10, l. 20). Definition of Large Customer Cap. The large-customer cap should include their share of the "ordered programs." The reference to s. 196.374(3), 2003 stats. only includes the EE fee and the EE embedded amounts. Please add "and ordered programs" to this line. *see change*

Please feel free to contact me if you have any questions. Work # is 251-0101. Cell is 219-1136. Home is 251-1253.

Lee Cullen
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- defn of Lg neg custom
- make change in 5 day period

pg 38, line 15-16

^A
the wholesaler supplier may sell credits
that it creates

§ may allocate & aggregate
it creates
the credits among its cus and
members

and allocate
on credits

The member's custom
may sell a credit that is allocated
to the next member on
list.

D-NOTE:
A (376)1.
at ER
credit

Lovell, David

From: Schooff, Dan PSC**Sent:** Sunday, February 19, 2006 9:00 PM**To:** Stuart, Todd; Cullen, Lee ELCW; Henderson, Patrick - Office of Governor Jim Doyle; Lovell, David; Kunkel, Mark; Sen.Cowles**Subject:** Large Customer definition

Here's some language from John Lorence on the large customer def:

Page 5, lines 1 to 6: The definition of a "large customer" is incorrect. First, the facility needs to be in the utility's service area and, second, the kilowatt and decatherm numbers need to be on a monthly basis. I think the definition should read more like this:

“(em) “Large energy customer” means a customer of an energy utility that owns or operates a facility in the energy utility’s service area that has an energy demand of at least 1,000 kilowatts of electricity per month or of at least 10,000 decatherms of natural gas per month and that, in a month, is billed at least \$60,000 for electric service, natural gas service, or both, for all of the facilities of the customer within the energy utility’s service territory.”.

From: Stuart, Todd [mailto:Todd.Stuart@legis.state.wi.us]**Sent:** Sun 2/19/2006 8:25 PM**To:** Cullen, Lee ELCW; Henderson, Patrick - Office of Governor Jim Doyle; Lovell, David; Kunkel, Mark; Sen.Cowles; Schooff, Dan PSC**Subject:** RE: URGENT - Revised Changes to SB 459 Amendment Per Todd Stuart

Lee:

Regarding #27 I had in my notes (R.J. e-mail 12:52 on 2/15 -- point d) that if the Legislature does not act, then they don't get equalization -- they get indexed. Therefore, I think the language is fine the way it is.

-TS

-----Original Message-----

From: Lee Cullen [mailto:cullen@cwpb.com]

Sent: Sunday, February 19, 2006 3:18 PM

To: Henderson, Patrick - Office of Governor Jim Doyle; Lovell, David; Kunkel, Mark; Sen.Cowles; Stuart, Todd; Schooff, Dan PSC

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02/20/2006

Stuart, Todd

From: RJ Pirlot [rjpirlot@wmc.org]
Sent: Monday, February 20, 2006 9:29 AM
To: Stuart, Todd
Cc: Steve Heinzen; Earl Gustafson
Subject: SB 459

Simple Amendment (LRB a2374/1)

1. Pg. 5, lines 13-15. Where did this language come from? What is the intent behind this, that is, what exactly are we being asked to fund? *no change necc'y*
2. Pg. 6, lines 3. Strike "and" in line 3 and, instead, insert ". If the customer deducts the amount of the funding from the amount the energy utility may collect from the customer under sub. (5)(b)". And in line 3, strike "may" and instead insert "shall."
3. Pg. 8, insert after line 5. "The commission shall not increase the amount that an energy utility may recover from a large energy customer by an amount other than that specified in (bm)(2)."
4. Question regarding pg. 7, line 21: Does this take into account the legislature passing the proposal but the governor vetoing it? Perhaps this would better read "If, by July 1, 2009, legislation based on the proposal under subd. 1 has not been enacted . . ."
5. Question regarding pg. 9, line 22: Why do we need to delete this language? Our concern is what happens between the enactment of this legislation and the energy efficiency contribution freeze taking effect. Are we missing something?

Substitute Amendment (LRB s0511/2)

1. Pg. 10, line 6-12. Would this be better titled "Limitation on low-income assistance fees"? Also, in line 7, strike "increase in a".

make change

R.J. Pirlot
 Director of Legislative Relations
 Wisconsin Manufacturers & Commerce
 Direct: 608-661-6935
 Mobile: 608-658-0817

D-note

SENATE AMENDMENT ,

TO SENATE SUBSTITUTE AMENDMENT (LRBs0511/2),

TO 2005 SENATE BILL 459

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8 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
9 (6), (7), (8), (9), (10e), and (10m) and ss. 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f),
10 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible
11 bidder, taking into consideration life cycle cost estimates under sub. (1m), when
12 appropriate, the location of the agency, the quantities of the articles to be supplied,

1 their conformity with the specifications, and the purposes for which they are
2 required and the date of delivery.

3 **SECTION 1m.** 16.75 (10e) of the statutes is created to read:

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5 equipment that is designed for heating, ventilation, air conditioning, water heating
6 or cooling, lighting, refrigeration, or any other function, and that consumes energy.

7 (b) The department, any other designated purchasing agent under s. 16.71 (1),
8 any agency making purchases under s. 16.74, and any authority may not purchase
9 energy consuming equipment unless the specifications for the equipment meet the
10 applicable standards for the equipment established under s. 16.855 (10s) (a). If there
11 is no standard under s. 16.855 (10s) (a) applicable to the type of energy consuming
12 equipment being purchased, or if the energy consuming equipment meeting that
13 standard is not reasonably available, the department, purchasing agent, agency, or
14 authority shall ensure that the energy consuming equipment that is purchased
15 maximizes energy efficiency to the extent technically and economically feasible. The
16 department, purchasing agent, agency, or authority shall not determine that energy
17 consuming equipment that meets the applicable standard under s. 16.855 (10s) (a)
18 either is not reasonably available on the basis of cost alone or is not cost-effective
19 unless the difference in the cost of the purchase and installation of the equipment
20 that meets the standard and the equipment that would otherwise be installed is
21 greater than the difference in the cost of operating the equipment that meets the
22 standard and the equipment that would otherwise be installed over the anticipated
23 life of the equipment.”.

24 **3.** Page 2, line 18: delete “**SECTION 1**” and substitute “**SECTION 1s**”.

INSERT 3-3 ✓

1 **4.** Page 6, line 2: after “revenues.” insert “The department of administration
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19 with page 20, line 16, and substitute:

20 “196.025 (1) (b) *Energy conservation and efficiency.* 1. In a proceeding in which
21 an investor–owned electric public utility is a party, the commission shall not order
22 or otherwise impose energy conservation or efficiency requirements on the
23 investor–owned electric public utility pursuant to s. 1.12(4) if the commission has

1 fulfilled all of its duties under s. 196.374 and the investor-owned electric public
2 utility has satisfied the requirements of s. 196.374 for the year prior to
3 commencement of the proceeding, as specified in s. 196.374 (8).

4 2. In a proceeding in which a wholesale supplier is a party, the commission shall
5 not order or otherwise impose energy conservation or efficiency requirements on the
6 wholesale supplier pursuant to s. 1.12(4) if the commission has fulfilled all of its
7 duties under s. 196.374 and the wholesale supplier's members are in the aggregate
8 substantially in compliance with s. 196.374 (7).

9 (c) *Renewable resources.* 1. In a proceeding in which an investor-owned electric
10 public utility is a party, the commission shall not order or otherwise impose any
11 renewable resource requirements on the investor-owned electric public utility
12 pursuant to s. 1.12(4) if the commission has fulfilled all of its duties under s. 196.374,
13 and the commission has informed the utility under s. 196.378 (2) (c) that, with
14 respect to the most recent report submitted under s. 196.378 (2) (c), the utility is in
15 compliance with the requirements of s. 196.378 (2) (a) 2.

16 2. In a proceeding in which a wholesale supplier is a party, the commission shall
17 not order or otherwise impose any renewable resource requirements on the
18 wholesale supplier pursuant to s. 1.12(4) if the commission has fulfilled all of its
19 duties under s. 196.374 and the wholesale supplier's members are in the aggregate
20 substantially in compliance with s. 196.378 (2).

21 (d) *Transmission facilities.* In a proceeding regarding a request by a public
22 utility or wholesale supplier to acquire, construct, install, or operate an electric
23 transmission facility or associated equipment, the commission shall not order or
24 otherwise impose requirements on the public utility or wholesale supplier pursuant
25 to s. 1.12(4)."

INSERT 5-15 ✓

INSERT 5-1 ✓

1 **14.** Page 21, line 20: after that line insert:

2 “(em) “Large energy customer” means a customer, of an energy utility, that
3 owns or operates a facility ~~that~~ has an energy demand of at least 1,000 kilowatts of
4 electricity or 10,000 decatherms of natural gas and that, in a month, was billed at
5 least \$60,000 for electric service, natural gas service, or both, for all of the facilities
6 of the customer within the energy utility’s service territory.”

7 **15.** Page 23, line 1: delete lines 1 to 4.

8 **16.** Page 23, line 11: before “administer” insert “develop and”.

9 **17.** Page 23, line 17: delete “(a)” and substitute “(ar)”.

10 **18.** Page 24, line 6: after “customers.” insert “A local unit of government that
11 receives assistance under this subd. 2. b. shall apply all costs savings realized from
12 the assistance to reducing the property tax levy.”.

13 **19.** Page 24, line 10: after that line insert:

14 “d. Initiatives for research and development regarding the environmental
15 impacts of ~~the electric industry.~~ *energy use in this state* ^{and economic}”

16 **20.** Page 25, line 5: delete “shall” and substitute “may”.

17 **21.** Page 25, line 7: delete “or” and substitute “at any time and shall request
18 the modification or discontinuation of”.

19 **22.** Page 25, line 8: delete lines 8 to 14 and substitute:

20 “(c) *Large energy customer programs.* A customer of an energy utility ~~that the~~
21 ~~commission has determined is a large energy customer under 2005 Wisconsin Act~~ *...*
22 ~~(this act), section 102 (8) (b) or sub. (5) (b) 2.~~ may, with commission approval,
23 administer and fund its own energy efficiency programs. A customer may request

INSERT 5-23 ✓

INSERT 6-10 ✓
commission approval at any time. A customer that funds a program under this paragraph may deduct the amount of the funding from the amount the energy utility may collect from the customer under sub. (5) (b) and the energy utility ~~may~~ ^{shall} credit the amount of the funding against the amount the energy utility is required to spend under sub. (3) (b) 2.”

23. Page 28, line 11: delete lines 11 and 12.

24. Page 28, line 17: after “(b) 1.” insert ~~“The cost of the audits shall be paid by the person or persons with whom the energy utilities contract for program administration under sub. (2) (a) 1.”~~ ^{NO}
INSERT 6-9 ✓

25. Page 30, line 13: delete that line and substitute:

“(5) COST RECOVERY. (a) *Rate-making orders*. The commission shall ensure” ^{is required to spend}

26. Page 30, line 15: delete “under sub. (3) (b) 2.” and substitute “for programs ^{spends} under sub. (2) (a) 1.” ✓

27. Page 30, line 16: delete the material beginning with that line and ending with page 31, line 3, and substitute:

“(b) *Large energy customers*. 1. Except as provided in sub. (2) (c) and par. (bm) 2., if the commission has determined that a customer of an energy utility is a large energy customer under 2005 Wisconsin Act (this act), section 102 (8) (b), then, each month, the energy utility shall collect from the customer, for recovery of amounts under par. (a), the amount determined by the commission under 2005 Wisconsin Act (this act), section 102 (8) (c).

2. A customer of an energy utility that the commission has not determined is a large energy customer under 2005 Wisconsin Act (this act), section 102 (8) (b), may petition the commission for a determination that the customer is a large energy

1 customer. The commission shall determine that a petitioner is a large energy
2 customer if the petitioner satisfies the definition of large energy customer for any
3 month in the 12 months preceding the date of the petition. If the commission makes
4 such a determination, the commission shall also determine the amount that the
5 energy utility may collect from the customer each month for recovery of the amounts
6 under par. (a). The commission shall determine an amount that ensures that the
7 amount collected from the customer is similar to the amounts collected from other
8 customers that have a similar level of energy costs as the customer. Except as
9 provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect
10 from the customer, for recovery of amounts under par. (a), the amount determined
11 by the commission under this subdivision. *has not been enacted*

12 (bm) *Allocation proposal.* 1. The commission shall commence a proceeding for
13 for creating a proposal for allocating within different classes of customers an
14 equitable distribution of the recovery of the amounts under par. (a) by all energy
15 utilities. The purpose of the allocation is to ensure that customers of an energy utility
16 within a particular class are treated equitably with respect to customers of other
17 energy utilities within the same class. No later than December 31, 2008, the
18 commission shall submit the proposal to the governor and chief clerk of each house
19 of the legislature for distribution to the appropriate standing committees of the
20 legislature under s. 13.172 (3).

21 2. *by* If ~~the legislature has not, before July 1, 2009, enacted~~ legislation based on
22 the proposal under subd. 1., the commission shall, beginning on July 1, 2009,
23 annually increase the amount that an energy utility may recover from a large energy
24 customer each month under par. (b) *only* by a percentage that is the lesser of the following:

1. The percentage increase in the energy utility's operating revenues during the preceding year.

2. The percentage increase in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. department of labor, during the preceding year."

28. Page 31, line 4: after "(c)" insert "*Accounting*."

29. Page 31, line 7: delete "(d) The commission" and substitute "(d) *Equitable contributions*. Subject to pars. (b) and (bm) 2., the commission".

30. Page 31, line 9: delete the material beginning with "The" and ending with "amounts." on line 12.

31. Page 31, line 13: delete that line and substitute:

"(5m) BENEFIT AND GRANT OPPORTUNITIES. (a) The commission shall ensure that, on an annual basis, each customer class of".

32. Page 31, line 16: delete "par. (a)." and substitute "sub. (5) (a). Biennially, the commission shall submit a report to the governor, and the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2), that summarizes the total amount recovered from each customer class and the total amount of grants made to, and benefits received by, each customer class."

33. Page 31, line 17: delete "(e)" and substitute "(b)".

34. Page 31, line 19: delete "and (b) 1." and substitute "and sub. (5) (b) 1."

35. Page 32, line 15: delete the material beginning with "To reflect" and ending with "\$375." on line 17.

INSERT 8-20 ✓

1 **36.** Page 32, line 20: delete the material beginning with “A commitment to”
2 and ending with “sub. (3) (f) 4.” on line 22 and substitute “The purpose of the
3 programs under this paragraph shall be to help achieve environmentally sound and
4 adequate energy supplies at reasonable cost. A program under this paragraph by a
5 municipal electric utility shall be consistent with the commission’s responsibilities
6 under s. 196.025 (1)-(ar) and the utility’s obligation under this chapter”.

7 **37.** Page 35, line 13: delete “for” and substitute “in”.

8 **38.** Page 35, line 14: delete “for” and substitute “in”.

9 **39.** Page 38, line 6: delete lines 6 to 12 and substitute:

10 “196.378 (2) (b) 1m. The amount of electricity ~~provided by hydroelectric power~~
11 that an electric provider may count toward satisfying the requirements of par. (a) 2.
12 shall be all electricity provided by hydroelectric power that the electric provider
13 purchased in the reporting year plus all of the following:

14 a. The average of the amounts of hydroelectric power generated by facilities
15 owned or operated by the electric provider for 2001, 2002, and 2003, adjusted to
16 reflect the permanent removal from service of any of those facilities and adjusted to
17 reflect any capacity increases from improvements made to those facilities on or after
18 January 1, 2004.

19 b. ~~The average of the amounts of hydroelectric power generated by facilities~~
20 owned or operated by the electric provider that are initially placed in service on or
21 after January 1, 2004.”.

22 **40.** Page 46, line 14: delete lines 14 to 21.

23 **41.** Page 47, line 1: delete lines 1 to 9 and substitute:

INSERT 9-21

1 “(b) No later than July 1, 2008, the public service commission shall submit a
2 report to the governor and chief clerk of each house of the legislature for distribution
3 to the legislature under section 13.172 (2) of the statutes that consists of the
4 commission’s recommendations on whether any component of an energy utility’s
5 revenue requirements should be itemized on ratepayer bills.”.

6 **42.** Page 47, line 9: after that line insert:

7 “(8) LARGE ENERGY CUSTOMERS.

8 (a) In this subsection:

9 1. “Commission” means the public service commission.

10 2. “Energy utility” has the meaning given in section 196.374 (1) (e), as created
11 by this act.

12 3. “Large energy customer” has the meaning given in section 196.374 (1) (em),
13 as created by this act.

14 (b) No later than July 1, 2007, the commission shall determine the customers
15 of energy utilities that, for any month during the 12 months preceding the date of the
16 commission’s determination, satisfy the definition of large energy customer.

17 (c) For each customer of an energy utility that the commission determines is
18 a large energy customer under paragraph (b), the commission shall, no later than
19 July 1, 2007, determine the monthly average that the customer paid the energy
20 utility in 2005 for recovery under s. 196.374 (3), 2003 stats.”.

21 **43.** Page 47, line 21: delete “(6), and (7)” and substitute “(7), and (8)”

22 (END)

✓
INSERT
10-13

✓
INSERT 10-20
✓

of the
statutes

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa2374/2ins
MDK:.....

INSERT 3-3:

1. Page 10, line 6: delete lines 6 to 14 and substitute:

✓ "16.957 (4) (c) 3. 'Limitation on electric bill increases low-income assistance fees.' For the period beginning on October 29, 1999, and ending on June 30, 2008, the total increase in a customer's electric bills that is based on the requirement to pay public benefits In any month, the low-income assistance fees ~~fee~~ ^{strike} including any increase resulting from an electric utility's compliance with this section, ~~may not~~ ^{fee} exceed 3% of the total of every other charge for which the customer is billed for that period month or \$750 per month, whichever is less." ✓

2. Page 11, line 3: delete lines 3 to 11 and substitute: ^{NO #}

^{NO #} "on June 30, 2008, the total increase in a customer's or member's electric bills that is based on the requirement to pay public benefits fees in any month, the low-income assistance fee ^{strike} including any increase resulting from a retail electric cooperative's or municipal utility's compliance with this section, ^{move} may not exceed 3% 1.5 percent of the total of every other charge for which the member or customer is billed for that period month or \$750 per month \$375, whichever is less." ✓

INSERT 5-1:

✓ "(em) "Large energy customer" means a customer ^{of} of an energy utility ^{that} that owns or operates a facility in the energy utility's service area ^{which} ~~which~~ ^{that} has an energy demand of at least 1,000 kilowatts of electricity per month or of at least 10,000 decatherms of natural gas per month and that, in a month, is billed at least \$60,000 for electric service, natural gas service, or both, for all of the facilities of the customer within the energy utility's service territory."

1 **INSERT 5-15:**

2 **3.** Page 24, line 18: delete "to large" and substitute "to, as determined by the
3 commission, large". ✓

4 **INSERT 5-23:**

5 ~~NO~~ if the customer satisfies the definition of ^alarge energy customer for any month in the
6 12 months preceding the date of the customer's request for approval ~~NO~~ ~~PH~~

7 **INSERT 6-3:**

8 ~~NO~~ If the customer deducts the amount of the funding from the amount the energy utility
9 may collect from the customer under [✓]sub. (5) (b), ~~NO~~ ~~PH~~

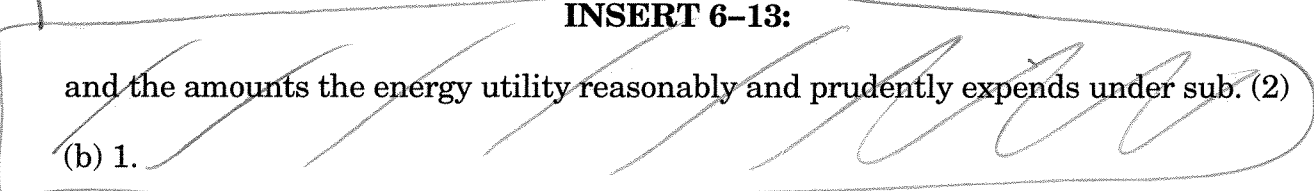
10 **INSERT 6-9:**

11 ~~NO~~ shall pay the costs of the audits from the amounts paid under the contracts under
12 sub. (2) (a) 1. ✓

13 **INSERT 6-10:**

14 **4.** Page 29, line 19: delete "and (b) 1. and 2.". ✓

15 **INSERT 6-13:**

16 and the amounts the energy utility reasonably and prudently expends under sub. (2)
17 (b) 1. 

18 **INSERT 8-20:**

19 **5.** Page 32, line 10: delete lines 10 to 17 and substitute:

20 "2. Notwithstanding subd. 1., in any month, the monthly fee under subd. 1. may
21 not exceed 1.5 [✓]percent of the total of every other charge for which the member or
22 customer is billed for that month or \$375 [✓]per month, whichever is less."

23 **INSERT 9-21:**

24 **6.** Page 38, line 14: delete lines 14 to 18 and substitute:

1 “**SECTION 87m.** 196.378 (2) (b) 4. of the statutes is repealed and recreated to
2 read:

196.378 (2) (b) 4. A wholesale supplier may sell credits that it creates and may aggregate and allocate the credits that it creates among its members or customers. A member or customer may sell credits or portions of a credit allocated to the member or customer by the wholesale supplier.”.

7 **7.** Page 43, line 1: before “The” insert “(a)”. ✓

8 **8.** Page 43, line 6: delete “subsection” and substitute “paragraph”. ✓

9 **9.** Page 43, line 8: after that line insert:

10 “(b) An electric utility may, with commission approval, administer or fund a
11 program that increases the electric utility’s renewable energy percentage beyond
12 that required under sub. (2) (a) 2. The commission may not order an electric utility
13 to administer or fund a program under this paragraph.”.

14 INSERT 10-13:

15 4. "Ordered program" has the meaning given under section 196.374 (1) (i) of the
16 statutes, as created by this act.

17 **INSERT 10-20:**

18) 4, and for recovery of the costs of ordered programs.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa2374/2dn

MDK: :....

↑
JLD

Sen. Cowles:

I made the changes requested to s. 196.378 (2) (b) 4., but I think the changes create a problem. Credits are created when an electric provider exceeds a percentage under the renewable portfolio standard. A wholesale supplier is not subject to the renewable portfolio standard. Thus, it does not appear ~~that~~ a wholesale supplier can create a credit. If you agree that this is a problem, perhaps it can be addressed in future "technical" amendments. *

JLD

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa2374/2dn
MDK:jld:jf

February 20, 2006

Sen. Cowles:

I made the changes requested to s. 196.378 (2) (b) 4., but I think the changes create a problem. Credits are created when an electric provider exceeds a percentage under the renewable portfolio standard. A wholesale supplier is not subject to the renewable portfolio standard. Thus, it does not appear that a wholesale supplier can create a credit. If you agree that this is a problem, perhaps it can be addressed in future "technical" amendments.

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STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

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LRB

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TODAY

MDK

LRB a2374/2

SA 1 to

SSA 1 to 2005 SB-459

#. Page 8, line 6: delete "for".

(end)

JLD



*Senate Amendment 1
to SSA 1 to SB 459*

1 amount collected from the customer is similar to the amounts collected from other
2 customers that have a similar level of energy costs as the customer. Except as
3 provided in sub. (2) (c) and par. (bm) 2., each month, the energy utility shall collect
4 from the customer, for recovery of amounts under par. (a), the amount determined
5 by the commission under this subdivision.

6 (bm) *Allocation proposal.* 1. The commission shall commence a proceeding for
7 for creating a proposal for allocating within different classes of customers an
8 equitable distribution of the recovery of the amounts under par. (a) by all energy
9 utilities. The purpose of the allocation is to ensure that customers of an energy utility
10 within a particular class are treated equitably with respect to customers of other
11 energy utilities within the same class. No later than December 31, 2008, the
12 commission shall submit the proposal to the governor and chief clerk of each house
13 of the legislature for distribution to the appropriate standing committees of the
14 legislature under s. 13.172 (3).

15 2. If, by July 1, 2009, legislation based on the proposal under subd. 1. has not
16 been enacted, the commission shall, beginning on July 1, 2009, annually increase the
17 amount that an energy utility may recover from a large energy customer each month
18 under par. (b) only by a percentage that is the lesser of the following:

19 a. The percentage increase in the energy utility's operating revenues during the
20 preceding year.

21 b. The percentage increase in the consumer price index for all urban
22 consumers, U.S. city average, as determined by the U.S. department of labor, during
23 the preceding year.”.

24 **30.** Page 31, line 4: after “(c)” insert “*Accounting*.”.



State of Wisconsin
2005-2006 LEGISLATURE

CORRECTIONS IN:

**SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 459**

Prepared by the Legislative Reference Bureau
(February 21, 2006)

1. Page 8, line 6: delete "for".

(END)